

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NATHAN GERRIOR-MAIN,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

CASE NO. C14-5136 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable John L. Weinberg, United States Magistrate Judge (Dkt. 15), and Plaintiff Nathan Gerrior-Main’s (“Gerrior-Main”) objections to the R&R (Dkt. 16).

On August 29, 2014, Judge Weinberg issued the R&R recommending that the Court affirm the decision of the Administrative Law Judge (“ALJ”) that Gerrior-Main was not disabled. Dkt. 15. On September 12, 2014, Gerrior-Main filed objections. Dkt. 16. On September 26, 2014, the Government responded. Dkt. 17.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

In this case, Gerrior-Main raises three main objections. First, Gerrior-Main contends that Judge Weinberg erroneously concluded that the ALJ’s discounting of

1 examining physician Dr. Patterson was harmless error. Dr. Patterson's limitation,
2 however, directly conflicts with another treating physician's limitations, Dr. Suffis. The
3 ALJ giving greater weight to one treating physician over the other is not harmful error
4 where Dr. Suffis' opinion is supported by substantial evidence.

5 Second, Gerrior-Main essentially disagrees with Judge Weinberg's conclusion that
6 the ALJ provided specific and legitimate reasons for rejecting the opinion of Dr. Palermo.
7 The Court, however, agrees with Judge Weinberg that the ALJ provided specific and
8 legitimate reasons for discounting this opinion. Therefore, the ALJ did not error in
9 discounting Dr. Palermo's opinion.

10 Finally, Gerrior-Main objects to the ALJ's finding at step five of the evaluation.
11 Gerrior-Main refers the Court to his arguments in the opening and reply brief. Judge
12 Weinberg sufficiently addressed those arguments and the Court adopts Judge Weinberg's
13 reasoning for the reasons set forth in the R&R.

14 Therefore, the Court having considered the R&R, Gerrior-Main's objections, and
15 the remaining record, does hereby find and order as follows:

- 16 (1) The R&R is **ADOPTED**;
- 17 (2) The ALJ's decision is **AFFIRMED**; and
- 18 (3) This action is **DISMISSED**.

19 Dated this 27th day of October, 2014.

20 
21 BENJAMIN H. SETTLE
22 United States District Judge